REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

Claims 1, 24-25 and 26-27 stand rejected under 35 USC 112, second paragraph, as being indefinite.

The suggested wording change to Claim 1 has been adopted, and the Examiner's attention to this is gratefully appreciated. Claims 23 and 26 have also been amended as per the Examiner's interpretation of them.

Claims 25 and 28 have been amended to use the indefinite article to describe the "a posteriori" probability.

Claims 1, 5, 7, 9-10, 17-20 and 22 stand rejected under 35 USC 102(b) as allegedly being anticipated by Basri, et al.'s "Clustering Appearances of 3D Objects" (Basri). This contention is respectfully traversed, and for reasons set forth herein, it is respectfully suggested that the rejection does not meet the patent offices burden of providing a prima facie showing of unpatentability.

Claim 17 has been amended to clarify that the homologous parts are used to form the model, and other features that are not in the set of homologous parts are ignored. As explained in the specification, for example paragraphs 21-23, this may minimize the effect of clutter in the images.

Basri, admittedly, does teach clustering the images, but does not teach or suggest ignoring features that are not within the homologous parts. Accordingly, Basri does not teach the subject matter of Claim 17, and therefore would be more likely to be effected by clutter in the images. Claim 17 should hence be allowable for these reasons, along with the claims that depend therefrom.

Claim 1 has been amended in a similar way: where only the similar features are used to form a model. As described above, Basri does certain kinds of clustering, but does not use that to avoid clutter in an image. Therefore, Claim 1 should be allowable along with the claims that depend therefrom.

Claim 6 is rejected as being obvious based on Basri in view of M.C. Burl, et al.'s "Recognition of Planar Object Classes" (Burl). While Burl admittedly teaches a joint probability function, there is no teaching or suggestion of using the joint probability function to form a model as described above. In any case, each of these claims should be allowable by virtue of their dependency.

Claims 8, 11-12 and 15-16 stand rejected over Basri in view of Burl, and further in view of Jojic et al. This contention is further respectfully traversed. While Jojic et al. certainly teaches the concept of expectation maximization, there is no teaching or suggestion of using this to form a model, as

claimed. In fact, the expectation maximization as described in the prior art, including Jojic et al., was only known prior to the present application for very simple models, e.g. Gaussians. No one prior to the present application used a complex expectation maximization technique. Claim 8, for example, defines a very complex expectation maximization that can represent a probability function; a complex image phenomena such as shaping the appearance of objects, occlusion, and clutter; things which had never before been modeled. Hence, the hypothetical combination would not render Claim 8 obvious.

Claim 11 has been amended in a similar way to that described above with respect to Claim 1, and hence Claim 11 should be allowable for analogous reasons to those discussed above. Similarly, Claim 16 has been amended to include analogous limitations from those in Claim 17.

Claim 23 has been amended to include a model forming part that operates based only on the foreground parts.
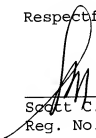
It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants ask that all claims be allowed. No fee is believed to be due, however please apply any applicable charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: August 14, 2006

Scott C. Harris
Reg. No. 32,030

Fish & Richardson P.C.
PTO Customer No. 20985
12390 El Camino Real
San Diego, California 92130
(858) 678-5070 telephone
(858) 678-5099 facsimile

10656289.doc